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BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **GREGORY JOHN MONTES** **1913 Paprika Drive** **Brentwood, CA 94513** **Registered Nurse License No. 661465** **Public Health Nurse Certificate No. 72975** Respondent.	Case No. 2010 - 517 **ACCUSATION**

Complainant alleges:

PARTIES

1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department of Consumer Affairs.

2. On or about July 22, 2005, the Board of Registered Nursing issued Registered Nurse License Number 661465 to Gregory John Montes ("Respondent"). The Registered Nurse License was in full force and effect at all times relevant to the charges brought herein and will expire on October 31, 2010, unless renewed.

3. On or about March 6, 2208, the Board of Registered Nursing issued Public Health Nurse Certificate Number 72975 to Gregory John Montes. The Public Health Nurse Certificate

was in full force and effect at all times relevant to the charges brought herein and will expire on October 31, 2010, unless renewed.

JURISDICTION

4. This Accusation is brought before the Board of Registered Nursing ("Board"), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

5. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

6. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license.

STATUTORY AND REGULATORY PROVISIONS

7. Section 2761 of the Code states:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct, which includes, but is not limited to, the following:

"(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions.

. . .

8. California Code of Regulations, title 16, section 1442, states:

"As used in Section 2761 of the code, 'gross negligence' includes an extreme departure from the standard of care which, under similar circumstances, would have ordinarily been exercised by a competent registered nurse. Such an extreme departure means the repeated failure to provide nursing care as required or failure to provide care or to exercise ordinary precaution in a single situation which the nurse knew, or should have known, could have jeopardized the client's health or life."

9. California Code of Regulations, title 16, section 1443, states:

"As used in Section 2761 of the code, 'incompetence' means the lack of possession of or the failure to exercise that degree of learning, skill, care and experience ordinarily possessed and exercised by a competent registered nurse as described in Section 1443.5."

COST RECOVERY

10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

STATEMENT OF FACTS

11. Respondent at all relevant dates was employed as a Registered Nurse in the Intensive Care Unit at Kaiser Permanente, Antioch Medical Center, in Antioch, California.

12. Patient A:

a. Respondent assumed care of Patient A on December 19, 2007, who had been admitted to the ICU and diagnosed with hypokalemia – a metabolic disorder that occurs when the level of potassium in the blood drops too low.[1]

b. On December 19, 2007, at 6:39 a.m., Patient A's physician ordered intravenous potassium supplementation (Potassium Chloride ("KCL") 10 meq/ml plus 10 mg of Lidocaine in 100 ml of Sodium Chloride). The first of four doses was to be administered by 7:30 a.m.

c. Despite the physician's order and attendant risks to Patient A's health, Respondent delayed administration of the KCL until 11:00 a.m., three-and-one half hours after the ordered start time.

d. Respondent reported that he could not find the medication on the unit. Respondent alternatively reported that he delayed administration of the KCL, as he decided to wait until a PICC (peripherally inserted central catheter) had been placed in Patient A.

[1] Potassium is required for nerve and muscle cells to function properly. Untreated, hypokalemia can lead to life threatening abnormal cardiac rhythms, paralysis and death.

13. Patient B:

a. On December 27, 2007, Respondent assumed care of Patient B.

b. Respondent gave the medication Mirapex 0.5 mg[2] to Patient B at 10:25 a.m. After giving this medication, Respondent admitted that he was not familiar with it, i.e., did not know for what condition it was prescribed, did not know its usual dosage, side-effects, and/or contraindications to use.

c. At the time Kaiser had many available resources available for registered nurses to research medications. Respondent chose to not utilize any of these resources.

d. Respondent gave Patient B the Mirapex because "the patient had been on it for a while and I trusted the RN's before me."

14. Patient C:

a. Patient C had been admitted to the ICU, critically ill with a diagnosis of cor pulmonale.[3] On January 8, 2008, at 9:01 a.m., Respondent was given a verbal order by Patient C's physician for intravenous administration of Dopamine and Dobutamine.[4]

b. At 10:30 a.m., Patient C's physician asked Respondent if the medications had been given as ordered. Respondent reported that he had been busy with other patients and that he had just gotten back from his break.

c. At 10:44 a.m., another nurse administered the Dopamine to Patient C.

d. At 10:52 a.m., another nurse administered the Dobutamine to Patient C.

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[2] Mirapex is a medication used to treat Parkinson's disease and/or a condition known as "restless leg syndrome." Common side effects include nausea, dizziness, postural hypotension (drop in blood pressure upon quickly sitting and/or standing); and hallucinations.

[3] Cor pulmonale is a condition characterized by a right-sided heart failure. Untreated it can be life threatening and/or lead to death.

[4] Dopamine is indicated for chronic cardiac decompensation and is used to increase cardiac output and concomitant blood flow to vital organs. Dobutamine is a medication indicated for patients with severe congestive heart failure.

e. When asked why he had delayed administering the medications as ordered, Respondent stated that he "didn't think it was that important as the patient's blood pressure was stable."

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence – Failure to Timely Administered Medication)

14. Respondent is subject to disciplinary action under Code section 2761, subdivision (a)(1) in that his failure to timely administer medications to Patient A, an ICU patient assigned to his care, as set forth above in paragraphs 12. Such conduct constituted an extreme departure from the standard of nursing care as defined in title 16, section 1442 of the California Code of Regulations.

SECOND CAUSE FOR DISCIPLINE

(Gross Negligence – Failure to Timely Administered Medication)

15. Respondent is subject to disciplinary action under Code section 2761, subdivision (a)(1) in that his failure to timely administer medications to Patient C, a critically ill ICU patient assigned to his care, as set forth above in paragraphs 14. Such conduct constituted an extreme departure from the standard of nursing care as defined in title 16, section 1442 of the California Code of Regulations.

THIRD CAUSE FOR DISCIPLINE

(Incompetence – Administering Medication Without Knowledge of Its Uses, Side-Effects and/or Contraindications)

16. Respondent is subject to disciplinary action under Code section 2761, subdivision (a)(1) in that he administered medication to Patient B without knowledge of its use, side-effects and/or contraindications, as set forth above in paragraph 13. Such conduct was not the practice of a competent nurse as defined in title 16, section 1443 of the California Code of Regulations.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 661465, issued to Gregory John Montes.

2. Revoking or suspending the Public Health Nurse Certificate Number 72975, issued to Gregory John Montes.

3. Ordering Gregory John Montes to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3.

4. Taking such other and further action as deemed necessary and proper.

DATED: 4/20/10

LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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